



DEPARTMENT OF EDUCATION

[Docket No.: ED-2023-SCC-0179]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

AGENCY: Office of Civil Rights (OCR), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this information collection request (ICR) by selecting “Department of Education” under “Currently Under Review,” then check the “Only Show ICR for Public Comment” checkbox. Reginfo.gov provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the “View Information Collection (IC) List” link. Supporting statements and other supporting documentation may be found by clicking on the “View Supporting Statement and Other Documents” link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Alejandro Reyes, 202-219-2035.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance

OMB Control Number: 1870-0505

Type of Review: An extension without change of a currently approved ICR.

Respondents / Affected Public: Private sector; State, local, and Tribal governments

Total Estimated Number of Annual Responses: 119,860

Total Estimated Number of Annual Burden Hours: 1,892,188

Abstract: This is an extension of an existing collection under OMB Control No. 1870-0505. This collection was originally submitted by the U.S. Department of Education (the Department) in December 2018 in connection with a Notice of Proposed Rulemaking for the Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance to propose amendments to the Department's implementing regulations for title IX of the Education Amendments of 1972. (ICR Reference No. 201811-1870-001). The Department finalized its rulemaking in May 2020 and the ICR was approved by OMB on December 8, 2020 (ICR Reference No. 202005-1870-001).

The ICR is scheduled to expire on December 31, 2023. The regulations that require the collection of information are set forth below.

Section 106.45(b)(2) Notice of Allegations requires all recipients, upon receipt of a formal complaint, to provide written notice to the complainant and the respondent, informing the parties of the recipient's grievance process and providing sufficient details of the sexual harassment allegations being investigated. This written notice will help ensure that the nature and scope of the investigation, and the recipient's procedures, are clearly understood by the parties at the commencement of an investigation.

Section 106.45(b)(9) Informal resolution requires that recipients who wish to provide parties with the option of informal resolution of formal complaints, may offer this option to the parties but may only proceed by: first, providing the parties with written notice disclosing the sexual harassment allegations, the requirements of an informal resolution process, any consequences from participating in the informal resolution process; and second, obtaining the parties' voluntary, written consent to the informal resolution process. This provision permits—but does not require—recipients to allow for voluntary participation in an informal resolution as a method of resolving the allegations raised in formal complaints without completing the investigation and adjudication. Additionally, recipients may not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

Section 106.45(b)(10) requires recipients to maintain certain documentation regarding their title IX activities. Recipients would be required to maintain for a period of seven years records of: sexual harassment investigations, including any determination regarding responsibility and any audio or audiovisual recording or transcript required under § 106.45(b)(6)(i), any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the recipient's education program or activity; any appeal and the result therefrom; any informal

resolution; and all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. Additionally, for each response required under § 106.44(a), a recipient must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment.

Dated: November 30, 2023.

Stephanie Valentine,

PRA Coordinator,

Strategic Collections and Clearance,

Governance and Strategy Division,

Office of Chief Data Officer,

Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023-26638 Filed: 12/4/2023 8:45 am; Publication Date: 12/5/2023]